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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/730,380 12/05/00 LILJEGREN

K 5432/01004

EXAMINER

HM12/0425

DARBY & DARBY P.C.  
805 THIRD AVENUE  
NEW YORK NY 10022

AULAKH, C  
ART UNIT PAPER NUMBER

1625  
DATE MAILED:

04/25/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Office Action Summary

Application No.  
09/730,380

Applicant(s)

Liljegren, K. et al.

Examiner  
Charanjit Aulakh

Group Art Unit  
1625



☐ Responsive to communication(s) filed on \_\_\_\_\_.

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1-35 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1-35 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☒ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been

☒ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_.

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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### DETAILED ACTION

1. According to a preliminary amendment ( paper no. 5 ), filed on Dec. 5, 2000, the applicants have amended claims 4-6, 8, 10-12, 14, 15, 19, 22, 24 and 27-33 and furthermore, have added new claims 34 and 35.
2. Claims 1-35 are now pending in the application.

### *Claim Rejections - 35 USC § 112*

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-35 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

While applicant may be his or her own lexicographer, a term in a claim may not be given a meaning repugnant to the usual meaning of that term. See *In re Hill*, 161 F.2d 367, 73 USPQ 482 (CCPA 1947). The term " characterised in that" in claims 1-33 is used by the claim to mean "the steps involved," while the accepted meaning is "wherein."

In claim 34, it is not clear what is meant by the term " compressing a mixture citalopram based ".

Should it be " compressing a mixture of citalopram base " ?

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In claim 35, line 1, it is not clear what is meant by the term " dosage from " . Should it be " dosage form " ?

***Claim Rejections - 35 USC § 102***

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-35 are rejected under 35 U.S.C. 102(b) as being anticipated by Boegesoe ( U.S. Patent No. 4,943,590 ).

Boegesoe discloses two novel enantiomers of citalopram, pharmaceutical compositions containing them and a method of using them. The pharmaceutical compositions containing citalopram ( see col. 9, lines 5-25 and claims 3-6 ) disclosed by Boegesoe anticipate the pharmaceutical compositions of instant claims.

6. Claims 1-35 are rejected under 35 U.S.C. 102(b) as being anticipated by Boegesoe ( U.S. Patent No. 4,136,193 ).

Boegesoe discloses Anti-depressive substituted 1-dimethylaminopropyl-1-phenyl phthalans, pharmaceutical compositions containing them and a method of using them. The pharmaceutical compositions containing citalopram ( see col. 8, lines 7-62 and claims 13-16 ) disclosed by Boegesoe anticipate the pharmaceutical compositions of instant claims.

***Claim Rejections - 35 USC § 103***

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7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bymaster ( U.S. Patent No. 6,147,072 ).

Bymaster discloses combination therapy for treatment of psychoses. In col. 10, lines 31-56, Bymaster teaches preparing pharmaceutical compositions including tablets, capsules etc. ( also see formulations 1 and 2 in col. 11, lines 40-65 ). Bymaster does not exemplify preparing pharmaceutical compositions comprising citalopram. However, Bymaster does teach using citalopram ( see col. 9, lines 18-19 ). Therefore, it would have been obvious to one skilled in the art to prepare instant pharmaceutical compositions ( tablets ) by direct compression of citalopram based on the teachings of Bymaster ( col. 10, lines 31-56 ).

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chana Aulakh whose telephone number is (703) 305-4482. The examiner can normally be reached on " Monday-Thursday " from 7:30 A.M. to 6:00 P.M.

If the attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Alan Rotman, can be reached on (703) 308-4698. The fax number for this Group is (703) 308-4556.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group's receptionist whose telephone number is (703) 308-1235.

C. S. Aulakh

CHARANJIT S. AULAKH

PRIMARY EXAMINER